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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,900	01/17/2004	Kok Hung Leung	FHKI 1001 DR 3822	8459

7590 03/08/2007
Michael D. Yablonsky, Ph.D., Esq.
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Cliffside Park, NJ 07010

EXAMINER

HANEY, RICHAE LEE

ART UNIT	PAPER NUMBER
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3765

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/759,900

Applicant(s)

LEUNG, KOK HUNG

Examiner

Richale L. Haney

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Amendment

The amendment filed on 12/13/2006 has been considered. Claims 1- 8 and 10 – 11 were cancelled. Claims 9 and 12 are currently pending. The USC 112 rejection of claim 9 has been obviated.

Claim Rejections - 35 USC § 112

1. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites a seam that is “doubled over.” The term doubled over does not adequately describe a type of seam and applicant neglects to provide a clear meaning for the phrase in the originally filed disclosure. It is not clear how the phrase doubled over limits the type of seam claimed. The applicants disclosure does not provide examples or clarification to what a doubled over seam consists of. Furthermore, Figure 3 does not show how the seam is formed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

Art Unit: 3765

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Hinnert (US 6,751,806). The device of Hinnert discloses a backpack type satchel (16) comprising a bag portion and a connected rain hat (32) and connected cape (10) attached to the bag portion that are attached to the bag to form an integral unit (12, 20) and a pocket in which the rain hat and coat may be stowed (Figure 2). The hat portion and the connect cape having front edges (see Figure 1) and an elastomeric frame comprising a rubber tube frame (Column 3, lines 60 –65) is provided along the inside edge. A flexible tie strap is attached to the cape and hat at the bottom edge (40) and flexible strings (40) that extend from the hood to secure the hat to differently shaped faces. The seams of Hinnant would inherently be the doubled over type claimed by the applicant since a seam requires joining two pieces of fabric, creating a doubled layer of fabric.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hinnant in view of Waldman et al. (US 5,564,125). The device of Hinnant substantially discloses

Art Unit: 3765

the claimed invention but is lacking a flexible fastening located at the top of the rain hat. The device of Waldman et al. discloses a flexible fastening (60, 61) at the top of a rain hat. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the device of Hinnant by utilizing the flexible fastening taught by Waldman et al. in order to pull the hood tightly about the face of the user (Column 4, lines 65 – 66).

Response to Arguments

6. Applicant's arguments filed 12/13/2006 have been fully considered but they are not persuasive.

Applicant traverses the rejection of claim 12 under USC 112 but is not persuasive. Applicant merely states that the seam is a double over type but does not discuss the structure or provide examples. It is not clear to a person having ordinary skill in the art what a double over seam is.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3765

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L Haney
Examiner
Art Unit 3765

RLH
3/5/2007



GARY L. WELCH
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